MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON HEALTH AND HUMAN SERVICES

Seventy-Seventh Session
April 29, 2013

The Committee on Health and Human Services was called to order by Chair Marilyn Dondero Loop at 1:35 p.m. on Monday, April 29, 2013, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn Dondero Loop, Chair
Assemblywoman Ellen B. Spiegel, Vice Chair
Assemblywoman Teresa Benitez-Thompson
Assemblyman Wesley Duncan
Assemblyman Andy Eisen
Assemblywoman Michele Fiore
Assemblyman John Hambrick
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblyman Andrew Martin
Assemblyman James Oscarson
Assemblyman Michael Sprinkle
Assemblyman Tyrone Thompson

COMMITTEE MEMBERS ABSENT:

Assemblywoman Peggy Pierce (excused)

GUEST LEGISLATORS PRESENT:

None

Minutes ID: 1043

STAFF MEMBERS PRESENT:

Kirsten Bugenig, Committee Policy Analyst
Risa Lang, Committee Counsel
Terry Horgan, Committee Secretary
Macy Young, Committee Assistant

OTHERS PRESENT:

Tina Gerber-Winn, Deputy Administrator, Aging and Disability Services Division, Department of Health and Human Services
Gary W. Olsen, Private Citizen, Las Vegas, Nevada
Sam Crano, Assistant Staff Counsel, Public Utilities Commission
Mike Eifert, representing Nevada Telecommunications Association
Megan N. Salcido, Government Affairs Coordinator, Office of the City Manager, City of Reno
Tracy Chase, Chief Civil Deputy, City of Reno
John J. Slaughter, representing Washoe County
Wes Henderson, Executive Director, Nevada League of Cities and Municipalities
Adam Mayberry, representing the City of Sparks
Bruce Arkell, representing Nevada Senior Corps Association; and the Personal Care Association of Nevada
Laura Coger, Program Manager, Consumer Direct Nevada
Michael J. Willden, Director, Department of Health and Human Services
Dan Musgrove, representing The Valley Health System; and Nevada Clinical Services
George Ross, representing Hospital Corporation of America, Inc.; and Sunrise Hospital and Medical Center
Misty Grimmer, representing North Vista Hospital
Christine Bosse, representing Renown Health

Chair Dondero Loop:
[Roll was taken. Committee rules and protocol were explained.]

I will now open the hearing on Senate Bill 61 (1st Reprint).

Senate Bill 61 (1st Reprint): **Revises certain provisions relating to persons with communications disabilities. (BDR 38-310)**

Tina Gerber-Winn, Deputy Administrator, Aging and Disability Services Division, Department of Health and Human Services:
I am here today to present Senate Bill 61 (1st Reprint) which is an agency-sponsored bill. We asked that our Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities be reconfigured. That Subcommittee is under our Commission on Services for Persons With Disabilities. Our bill suggests that the membership of our Subcommittee be reduced from 11 members to 9. Previously there were three nonvoting members, so we have substituted those three with two voting members. The changes will include more consumers on our Subcommittee and reflect changes of duties on the Subcommittee. The Subcommittee was initially adjudicating complaints, or was in line to adjudicate complaints with any interpreters or realtime captioners. We have not had any events concerning those, so we are suggesting a Subcommittee member change. An amendment to the bill in the Senate added some other duties, which are listed in this reprinted bill, and added a five-year plan to help our agency plan services for people with disabilities, particularly for the deaf and hard of hearing.

We supported the bill because we feel it will help the Subcommittee concentrate on issues for people who are deaf or hard of hearing, as well as allow us to have a more efficient Subcommittee with fewer members, which will make it easier to get a quorum and have regular meetings.

Assemblyman Hogan:
In a recent hearing, there was a proposal to make some changes in the naming of some committees within the Department of Health and Human Services (DHHS) and to adjust some of their responsibilities—particularly for those people having problems with their eyesight. As soon as we heard a very persuasive presentation from the agency, and after I had spoken in favor of the proposed changes, we heard what the recipients of those services thought about the changes. Could you summarize what, if any, reservations or differences those who benefit from these services might have, or have expressed to your staff, concerning the changes you are proposing?

Tina Gerber-Winn:
We have had discussions with our Subcommittee regarding the group as a whole becoming more productive. We have concentrated on looking at the bylaws to give them more guidance concerning their duties and what the Subcommittee is to achieve. During that time, we worked with people who receive services through the Deaf and Hard of Hearing Advocacy Resource Center, as well as through other entities in our state. We heard that they would like a stronger plan for people who are deaf and hard of hearing so we can strategically plan our resources to offer them better access to services.

I believe we clearly should be representing that group based on the feedback we have received so far.

Chair Dondero Loop:
Are there additional questions?

Assemblyman Hambrick:
In section 1, subsection 1, paragraph (e) the language mentions "persons engaged in the practice of interpreting or the practice of realtime captioning." Do these individuals have some type of certification? Do you have categories of interpreters who are certified by courts?

Tina Gerber-Winn:
There are national certifications, and we keep track of that education for people in our registry.

Assemblyman Hambrick:
Referring again to paragraph (e), do we take it for granted that the individuals named will have obtained that national certification? It does not mention it in the bill.

Tina Gerber-Winn:
When someone is nominated for a position, they complete an application that includes their background. We review the information on the application before we suggest they be appointed to the Subcommittee.

Chair Dondero Loop:
Are there additional questions from the Committee? [There were none.] Would you kindly educate us as to your reasons for changing the number and makeup of the Subcommittee? I understand having a parent on it, but you have removed some nonvoting members.

Tina Gerber-Winn:
We looked at members who had been participating. The original makeup of the group was to mitigate complaints that we might have received about real time captioning or interpreting. In general, those problems have not occurred, so we felt it was more important to look at the strategies of service delivery versus complaints. Most of our complaints were actually related to the fact that there were no services generally being delivered to people who were deaf and hard of hearing or that they were hard to access.

Chair Dondero Loop:
Will the parent, or those people whom you may add, apply or simply be appointed?

Tina Gerber-Winn:
We have an application process. In addition, we are planning to air public service announcements explaining the purpose of the Subcommittee and what type of membership we are looking for. Because certain appointments expire at different times, we would have to constantly be recruiting to replace people on all our subcommittees to ensure we have the right composition. Also, the group will recruit from among interested people they have worked with.

Chair Dondero Loop:
Are there any additional questions? [There were none.] We will go ahead and ask those in support of S.B. 61 (R1) to begin their testimony.

Gary W. Olsen, Private Citizen, Las Vegas, Nevada:
I am a member of the Nevada Commission on Services for Persons with Disabilities, as well as chairperson of the Communication Access Committee, which you are dealing with at the moment. We call it the CAC. I have been a member for quite some time. I also see a lot of things that need to be changed. My recommendation and suggestion is that we expand and provide more accessibility and equal accessibility to services for those who are deaf and hard of hearing throughout the state of Nevada. It is not primarily focused just on telecommunications. It is also accessibility for different state services, as well as for private services. My other suggestion is that we do a better job of collecting relevant information in terms that will be helpful to us as a deaf and hard-of-hearing community so that we can propose ideas to legislators so they can act on those. At the same time, we are also working with the Aging and Disability Services Division (ADSD) in order to coordinate possible events, for example statewide surveys, that we intend to begin.

The reason to reduce the number of Subcommittee members is that we see a need for savings, as well as a need to be able to provide direct expertise we can then bring to the Subcommittee so we can pursue and disseminate to the public, to schools, and to other service agencies so that deaf people will then get better services. It is not to say that nothing has happened in the past. The Subcommittee has done quite well, but the horizon needs to be expanded, and we need people with diverse backgrounds as Subcommittee members. I do support the bill. I want to see this change happen, and I want to continue to collaborate with ADSD, and I am happy to see this bill arrive at your floor. I hope you will support the changes that are long overdue.

Chair Dondero Loop:
Thank you very much, Mr. Olsen. Are there any questions? Is there anyone else in support of S.B. 61 (R1)? Is there anyone in opposition? Is there anyone neutral on S.B. 61 (R1)?

Sam Crano, Assistant Staff Counsel, Public Utilities Commission:
The Public Utilities Commission (PUC) is neutral on this bill. The telecommunications device for the deaf (TDD) fund generally pays for a good portion of the services. The five-year plan was in the division's original budget, but we are asking for some legislative direction. When the TDD fund was initially established, it was just to fund telecommunications devices, training, and maintenance so everyone would have access to the telecommunications system whether they were deaf, hard of hearing, or not. Since that time, it has been expanded to cover some advocacy areas—usually telecom-related—but lately, it has been growing and covering more outreach and advocacy programs. Those programs are important, but not necessarily telecommunications-related. Speaking for our regulatory operations staff, it is sometimes hard for us to draw the line as to what programs should be covered and what should not.

If the Legislature, as the policy-making body, wants to cover only telecommunications devices, training, and maintenance, or cover advocacy that is telecom-related, that is one option. You could also choose to cover all advocacy, or advocacy up to a point, but tell us what that point is. That would give us some direction in going forward, setting our budget, and collecting the money to fund some of these worthwhile programs.

Mike Eifert, Executive Director, Nevada Telecommunications Association:
I would like to echo some of Mr. Crano's request. This community needs funding; however, the statute is such that interpretations are many and varied. What we have today is a process that is being drawn out to the final deadline to a point where the PUC will have to act quickly so that the budget can be carried forward for next year.

Telecommunications carriers in Nevada are charged with billing and collecting the TDD surcharge. We get questions from our customers concerning what the TDD tax is. They look at it as a tax on their bills. We have to be able to address their concerns, but it is becoming more and more difficult to do so. A somewhat strong interpretation of statute today would say that it is only telecommunications-related. As Mr. Crano indicated, it has come to possibly be more than that. A statutory legislative direction is something we look forward to so that, in the future, we do not have this contentious activity where we are viewed as trying to take something away from a community that desperately needs help.

Chair Dondero Loop:
As you know, this is a policy committee. Are there any questions from the Committee?

Assemblywoman Benitez-Thompson:
You have a seat at the table on the Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities. The issue you are talking about is exactly why the Subcommittee was formed. The folks with seats at the table should be having this conversation. As a Subcommittee, you have been given permission to set the policies by which they will move forward. I am not quite sure that we are the right people to give you an answer on that contentious issue.

Chair Dondero Loop:
Did either one of you testify in the Senate?

Sam Crano:
I did not. I did not know about the amendment to add the five-year plan to the bill until after it had been done. At that time, I attended a work session, but was not called to the table.

Mike Eifert:
I did work with the Department of Health and Human Services on the language and on the amendment. Like Mr. Crano, I went to the work session, but there was no opportunity for me to speak. We are really here to get our concerns on record. We are not in opposition to the bill.

Chair Dondero Loop:
Are there any additional comments? [There were none.] If no one else wants to speak as neutral on the bill, we will close the hearing on S.B. 61 (R1).

We will open the hearing on Senate Bill 4 (1st Reprint).

Senate Bill 4 (1st Reprint): Revises provisions governing the testing of a person or decedent who may have exposed certain public employers, employees or volunteers to a contagious disease. (BDR 40-265)

Megan N. Salcido, Government Affairs Coordinator, Office of the City Manager, City of Reno:
[Ms. Salcido presented the Committee with written testimony (Exhibit C).]

Thank you for the opportunity to present Senate Bill 4 (1st Reprint) here today. We are pleased to tell you that this bill passed out of the Senate unanimously, and we are hopeful that it will have the same fate here.

Senate Bill 4 (1st Reprint) is a bill that provides protections to all public employees and volunteers who, during the course of their official duties, may have been exposed to certain contagious diseases. There are two primary goals of S.B. 4 (R1). The first goal is to provide all public employees and volunteers of public agencies the ability to petition a court to order a blood test of the person or decedent who may have exposed them to a contagious disease. Under existing law, this ability is limited to law enforcement officers, correctional officers, emergency medical attendants, firefighters, county coroners, medical examiners, and employees of agencies of criminal justice. However, it is the City of Reno's position that all our public employees and volunteers are public servants and, in the course of their job duties, they may come into contact with members of the public and deserve the same protections that currently exist in statute.

Section 1 of this bill expands the existing protections to allow any public employee or volunteer to seek a test of the person or decedent who possibly exposed him or her to certain contagious diseases. The second goal of S.B. 4 (R1) is to shorten the time frame within which a possible exposure occurs and the results of a court-ordered test are obtained. There are certain prophylactic drugs that help prevent a person from contracting the disease to which he or she has been exposed. These drugs are most effective when taken as quickly as possible—ideally within a two-hour window from the time of exposure. These prophylactic drugs can have severe side effects, so it is crucial that a public employee or volunteer be able to make an informed decision before deciding whether or not to take those drugs.

The written petition process in *Nevada Revised Statutes* (NRS) 441A.195 makes it difficult for a public employee to obtain the results of the test within the two-hour window. To shorten the time frame, section 1 provides that courts may establish rules to allow a judge or justice of the peace to conduct a hearing and issue an order by electronic or telephonic means. Section 1 also allows a judge who conducts a hearing electronically or telephonically to authorize certain persons acting on behalf of the public employer or public agency to sign the name of the judge or justice of the peace on a duplicate order which shall be deemed to be an order of the court.

Sections 2 and 3 of the bill expand the jurisdiction of justice and municipal courts to include any action seeking an order for a test of a person who may have exposed a public employee or volunteer to certain contagious diseases.

We understand that there may be some concerns about confidentiality issues related to the results of any court-ordered tests; however, existing law contains confidentiality provisions for tests of these kinds. *Nevada Revised Statutes* 441A.220 provides that all personal information is confidential and must not be disclosed to any person, including pursuant to any subpoena, search warrant, or discovery proceeding except for certain situations enumerated in NRS 441A.220. One of the enumerated exceptions is NRS 629.069 which specifies that a provider of health care shall disclose the results of any court-ordered tests to certain persons, including the person who was tested, the person who filed the petition, and the employer's designated health care officer.

Section 1 of the bill further clarifies that all records submitted to the court in connection with a petition filed pursuant to NRS 441A.195 are confidential and the judge or justice of the peace shall order the records, and any records of the proceedings, to be sealed.

Assemblyman Eisen:
I have no real concerns about the intent of the bill as presented. What concerns me is how the existing language is written. If we are going to make a change, why are we not fixing some of those items? For instance, why did we choose these four particular conditions—HIV, Hepatitis B, Hepatitis C, and tuberculosis (TB)—yet ignore things such as coccidioidomycosis, which is spread the same way TB is, or syphilis, which could be something a public health nurse might be exposed to by a newborn? Why are we not simply considering exposure to communicable diseases in the course of their work rather than focusing on these four? As a physician in this circumstance, I am really not concerned with whether someone was exposed to Hepatitis B surface antigen. That is what we use for the vaccine. I am concerned about whether the person was exposed to the virus itself.

Also, this specifically talks about testing of blood. For one, I do not know why we need two specimens of blood. Also, blood would be of no use whatsoever if someone were exposed to tuberculosis. As I said, I do not have an issue with the changes intended by the bill. We need to have some fixes, and I hope you would be willing to address what the testing is so we are not so specific about blood.

Megan Salcido:
Regarding your first question concerning the four included diseases, this statute was originally enacted in 1999, and I am not familiar with the policy that selected only those diseases. If it is the policy of this Committee to expand those to include additional diseases, we are open to that.

With regard to your questions concerning the blood, we appreciate your expertise and are open to amending the bill to address those concerns as well if that is the direction of the Committee. With the permission of the Chair, we would be happy to work with staff to address your concerns about existing statute.

Assemblyman Sprinkle:
I am very much in favor of this bill and the intent behind it. We are opening this up to so many more people. The potential for a positive test result leads to what I believe to be further counseling and therapy these people would need. Hopefully, that will be part of the policy of the City of Reno if this is implemented. Have you mentioned how this will be paid for?

Megan Salcido:
In section 1, subsection 7, existing statute requires the employer of the person who is exposed to pay for the cost of the test.

Chair Dondero Loop:
There is no fiscal note on this bill.

Tracy Chase, Chief Civil Deputy, City of Reno:
The City of Reno has Policy 505, and we have set up an entire process that goes from beginning to end if there is an exposure. That process includes getting our employees in contact with our workers' compensation provider. In addition, any recommendation that is provided we follow up with our employee assistance program, our process that gets them connected with therapists and counselors. We have delineated all of that in our policy and have a procedure so we get our employees the best care possible.

Assemblyman Thompson:
My question concerns the privacy laws. The person who may have been exposed gets a court order. What provisions are in place to still provide privacy for the person who may have infected the worker or volunteer? Yes, the public health officers, all those professionals, would have to abide by the law, but what is in place so the employee or volunteer does not share that private information?

Tracy Chase:
If you look at section 1, subsection 5, we thought that the confidentiality needed to be increased or protected a little more than in the original law, so we added:

> Except as otherwise provided in NRS 629.069, all records submitted to the court in connection with a petition filed pursuant to this section and any proceedings concerning the petition are confidential and the judge or justice of the peace shall order the records and any records of the proceedings to be sealed and to be opened for inspection only upon an order of the court for good cause shown.

If you had a concern about the exposed person revealing that information, we could add some language in this section indicating that, as part of the court order, they could include a prohibition against providing that information.

Assemblyman Hickey:
I am happy to see this expanding to public employees and to volunteers. If there were a Good Samaritan on the scene of an incident or accident, what impact would there be on that person?

Megan Salcido:
This bill does not address a Good Samaritan issue. That is elsewhere. In the Senate, we looked at the feasibility of including Good Samaritan language into this bill, and it was determined that there were too many other factors that were not able to be addressed in this bill. If that is something we could work on in the interim, we would be happy to.

Assemblywoman Spiegel:
As I read the bill, it seems as though it is written to cover the entire state and not just Reno or Washoe County. Have you had conversations about this with other jurisdictions and are they on board?

Megan Salcido:
Yes, we have had conversations with other jurisdictions throughout the state and they are on board with this bill. In the Senate, we were able to address a few concerns with implementation of the process with the justice courts in Las Vegas. We have had open dialogue with entities all over the state and were able to get everyone on board.

Chair Dondero Loop:
Are there additional questions from the Committee? [There was no response.] We will call forward those in support of S.B. 4 (R1).

John J. Slaughter, representing Washoe County:
I would like to thank the City of Reno for bringing this legislation forward. We are on board. It is a great piece of legislation.

Wes Henderson, Executive Director, Nevada League of Cities and Municipalities:
We, too, would like to thank the City of Reno for bringing this bill forward. We think it is important for all public employees to have these provisions to get tested in case they are exposed to a disease. We are fully in support of this bill.

Adam Mayberry, representing the City of Sparks:
We, too, are in support of this bill and appreciate the City of Reno's leadership on this issue. For all the same reasons that my colleagues support the bill, we do as well.

Chair Dondero Loop:
Are there any questions for these three gentlemen? [There was no response.] Is there anyone else in support? Is there anyone in opposition? Is there anyone who is neutral? [There was no response.] We will close the hearing on S.B. 4 (R1) and open the hearing on Senate Bill 51 (1st Reprint).

Senate Bill 51 (1st Reprint): **Makes various changes relating to the regulation of certain nonmedical and medical services provided to persons with disabilities. (BDR 40-309)**

Tina Gerber-Winn, Deputy Administrator, Aging and Disability Services Division, Department of Health and Human Services:
Senate Bill 51 (1st Reprint) was introduced to streamline a certification process for intermediary service organizations (ISOs). These are agencies in our state that provide personal care. The main difference between these and a personal care aid (PCA) agency is intermediary service organizations allow individuals to self-direct their care. We would like to eliminate a duplication in process. Our agency certifies ISOs and the Health Division licenses PCA agencies. We worked with the Health Division to amend the process, so now, the Health Division would certify ISOs. If you already have a licensed agency for personal care, you would not have to have a license and a certification. You would have one or the other, and the processes would be merged so that a provider would not have to go through two certification events.

We support the bill because we feel it would be more efficient. It eliminates work for the providers, as well as for the state agencies. It clarifies any confusion in background checks, processes, and certifying or licensing a personal care aid agency. There is no fiscal note on this bill.

Chair Dondero Loop:
Are there any questions?

Assemblywoman Benitez-Thompson:
In reading the bill, the scope seems really big. It almost looks as though any type of agency that touches or has any type of connection or dealings with the population of folks with disabilities or aging is going to be required to be certified. Will pretty much any service provider need to become a certified intermediary agency? What is your intent with this scope and how many service providers are you seeking to capture?

Tina Gerber-Winn:
In the back of the bill are references to other jurisdictions the Health Division has. The bill is intended to reduce the efforts providers have to go through to become certified as intermediary service organizations. We currently have administrative code regulating this and none of that has changed in this bill. It is moving all the previous language from the statute that governs our agency in the Health Division's statutes.

Chair Dondero Loop:
Are there additional questions?

Assemblywoman Spiegel:
Will you explain the difference in the regulatory structure? Currently, it seems that the intermediaries need to be both certified and licensed. It seems as though you are taking away some regulatory oversight. Could you explain that?

Tina Gerber-Winn:
When personal care aid agencies first were licensed three or four sessions ago, they were new entities and the Health Division certified them. At that time, intermediary service organizations did not exist. When ISOs came along, there was some concern about the scope of work they did. It was thought that they might be better aligned with disability services in terms of the self-directed care that intermediary service organizations oversee. Because of that, they were separated into two processes: the licensing of personal care aid agencies, which the Health Division does; and the certification of intermediary service organizations, which the Aging and Disability Services Division does. As the years have passed and operations have continued, there is not really

a difference in what they do in general as far as certification or oversight licensure. We found we were looking at the same processes, the same records, the same policies, so we decided to work collaboratively with industry, as well as with the Health Division, to make an easier process for service delivery.

Assemblyman Sprinkle:
Could you give me some background? I have a sense we are getting away from regulation; that this is broader. If that is the case, it would be a concern to me because I believe in strong regulations, especially for these types of services and the people who provide them.

Tina Gerber-Winn:
At this point, there is no reduction in oversight of the agencies. The certification process, or the licensing process, looks at a variety of backgrounds and information which are listed in this bill and include items such as qualified administrator, background of the staff, and training of the staff. That will all continue. The main difference would be for people providing the service. If they are Medicaid providers, as an example, there is another level of review we do for the actual service delivery. This bill simply allows the Health Division to certify the provider as eligible to provide the services, but we will still, as a payer, review what is provided by a licensed provider.

Assemblyman Sprinkle:
When we talk about putting this into a different department, it is just the licensing aspects. The regulations in place currently are just transferring over and will still remain the same. Is that correct?

Tina Gerber-Winn:
That is correct.

Assemblywoman Benitez-Thompson:
Is this a consolidation of efforts? What is the reason it is being moved from the Aging and Disability Services Division to the Health Division?

Tina Gerber-Winn:
We have a duplication of efforts. With the providers, we certify an agency at the end of the year, and they might have also gone through a licensing analysis through the Health Division. As I mentioned, we look at the same information many times. There are a few extra requirements for an ISO as far as oversight of the service delivery and policy, so the Health Division has looked at that and will add it to their review. If, for example, an agency wants to offer personal care, as well as self-directed care, that would be added to the review process.

Assemblywoman Benitez-Thompson:
If I am the service provider, under the status quo, I might have a certain set of forms and regulations. I go through Aging and Disability Services and also through the Health Division. With this, it is all going to be housed through the Health Division, and they will share that information. For me as a service provider, I am going straight to the Health Division and doing all my business there. I do not need to interface with both agencies; I just do this paperwork and certification through one agency. Is that the goal?

Tina Gerber-Winn:
That is the goal.

Chair Dondero Loop:
Thank you for that clarification. Are there additional questions or comments from the Committee? [There was no response.] Will those in support of S.B. 51 (R1) come forward?

Bruce Arkell, representing Nevada Senior Corps Association and the Personal Care Association of Nevada:
I sent out a flow chart that is on the Nevada Electronic Legislative Information System (NELIS) (Exhibit D). There are about 100 personal care aid agencies in the state and there are 10 or 15 agencies that currently have dual licenses. They have to get certified as an ISO, as well as a PCA. The purpose of this bill is to put the ISOs and PCAs into one pot. Right now, everything is working pretty well, but as time goes along, the regulatory process inevitably begins to separate when, in fact, they are all providing the same services. We have been working on this with both divisions for the past two years to accomplish this.

The other part of this, which Ms. Gerber-Winn did not mention, is the skilled and unskilled services that are offered under NRS 629.091. This is a State Board of Nursing statute that allows caregivers, who have special training for a given person, to provide some medical services specifically prescribed by a doctor. This includes things such as blood pressure readings and blood sugar tests. That has been in existence since 1995. Those are supervised by the customer, the person getting the services. We have pulled all that together, so now it will be cheaper for the agencies doing the services, and it is going to be more beneficial to the divisions. Now there will only be one set of rules they have to follow instead of two for those who had to get dual licensures in the past.

Chair Dondero Loop:
Are there any questions?

Assemblyman Eisen:
Twice on your flow chart you use the abbreviation PCA, but it is not defined, so I want to be sure I know what that means. Also, at the bottom of the page, it appears that the customer, not a term I typically use in regard to a patient, supervises medical services, which I do not quite understand. Could you explain those two things to me?

Bruce Arkell:
Personal care agencies are PCAs; ISOs are intermediary service organizations. They both deliver the same kinds of services. The difference is the relationship between what I call the customer—the person receiving the services—and whether the direct employee or the customer supervises the services. That is in the upper part of the flow chart.

The lower part of the flow chart deals with NRS 629.091. That is a nursing statute that came into existence in 1995. It is designed primarily for the disabled who, if they were not disabled, could perform that service. This includes blood sugar tests, blood pressures, and those types of services. Since they are disabled, they are not able to perform those tests on themselves. If you need those services and cannot perform them, you can obtain a doctor's sign-off to have someone else perform those services for you. That is specific between the patient/customer and the assistant. The patient/customer supervises just as he would if doing it himself. Personal care agencies were doing those services, if they were approved by the doctor and patient. When the ISO statutes were added, they were specifically given that authority. It was then interpreted that PSAs could not perform that service. That is why they ended up becoming dual licensed—or one licensed and one certified. It became an administrative burden on the agencies, but the patients did not see the difference. Some agencies had to carry two sets of certifications and two sets of licenses if they wanted to perform those services or had patients in need of those services.

Assemblyman Eisen:
It sounds as though this is relieving the ISOs of the only thing, in terms of oversight, that made them different from personal care agencies, which was to have that second set of people to whom they had to answer. Yet, they are not entirely responsible for the person who provides the services as a personal care agency would be, since that is their employee.

Bruce Arkell:
We have one true ISO in the state. All the rest of them are a combination of personal care agencies and ISOs. The difference is the form of service. They are customer-directed services because the customer controls the times. The types of services are covered by their care plans in either case. It is a different management process. The services are the same, but there is a different employment relationship. It does not change the regulatory scheme; it simplifies it.

Laura Coger, Program Manager, Consumer Direct Nevada:
We are an intermediary service organization with the state of Nevada and have been since 2003. The major difference between a personal care agency and an intermediary service organization is that an ISO is more of a support service to individuals who want to self-direct their care. The individual is the employer of fact. That person is going to do the hiring, firing, supervising, and scheduling of the people who help with his care. We help with regulatory compliance; we do taxes, unemployment and workers' compensation, and payroll billing for that arrangement. We are basically a support service for those people.

People who are self-directing their care only want people they know and whom they select to provide their care. They do not want agency-based caregivers or nurses coming to their home to help them with something they could do for themselves if it were not for their disability. For instance, I used to check my own blood pressure or do my own blood sugar testing, but after my stroke I cannot use my right arm. I can now have a personal care aide, who happens to be my niece whom I know and trust and has been trained to be a caregiver. She can be signed off by my physician and trained to do those very specific tasks the doctor has okayed her to be trained to do. They are not doing any really invasive medical procedures, only the types of things folks would do for themselves if they did not have a disability.

Assemblyman Eisen:
I am still trying to get my head around the differences between these two entities. I wonder if there are any existing limitations on the kinds of patients who could contract for the services you are talking about with an ISO. I would be particularly concerned about someone who may have some mental incapacity as a part of his condition. Are they still able to enter into such a contract? I would be very worried about the vulnerability of that individual without having the employer/employee oversight and licensure that is in place on the personal care agency side.

Laura Coger:
A lot of people worry about that. Self-direction can be done by the person himself. If the person has a cognitive deficit or intellectual disability or dementia, he may use a personal representative or a guardian to direct his care.

We would never have an individual direct care who is not capable of doing that. In the case where someone does not understand how to self-direct, they must sign a form that reads something along the line of, "I understand that my responsibility is going to be to recruit, hire, fire, supervise, and schedule caregivers." If someone is incapable of doing that, he would need a personal representative to do those tasks for him.

I want to add that I do support this bill.

Chair Dondero Loop:
Are there additional questions from the Committee? [There were none.] Is there anyone else in support? Is there any opposition? Is there anyone neutral on the bill? [There was no response.] All right, we will close the hearing on S.B. 51 (R1) and open the hearing on Senate Bill 274 (1st Reprint).

Senate Bill 274 (1st Reprint): Revises provisions relating to contracts and agreements of the Department of Health and Human Services. (BDR 39-1082)

Michael J. Willden, Director, Department of Health and Human Services:
There are two documents on the Nevada Electronic Legislative Information System (NELIS). One is called "background" (Exhibit E) and one is called "flow chart" (Exhibit F). I would like to talk about the history of this bill. During the last legislative session, language was included in section 47 of the appropriations act, Assembly Bill No. 580 of the 76th Session, to allow the Department to implement a private hospital upper payment limit (UPL) program. We have been running a public hospital UPL program for many years; this would allow us to do a similar program with private hospitals. We did not think at the time that we needed any other statutory changes. We submitted a state plan amendment we had been working on with the private hospitals and a number of other players for three years. We submitted a state plan amendment in March 2010. On November 7, 2011, we had approval from the federal government to implement this option, so during the last session we thought we had accomplished the task necessary to implement it.

During the process of getting ready to roll this out, the Office of the Attorney General indicated they had concerns with two statutes—*Nevada Revised Statutes* (NRS) Chapter 433 and Chapter 433B. Senate Bill 274 (1st Reprint) fixes the concerns raised by the Attorney General's Office, allowing this program to go forward. There are five sections to the bill. Each section does the same thing for different divisions, or statutes, within the Department of Health and Human Services (DHHS). Section 1 deals with Adult Mental Health Services. Section 2 deals with the Division of Child and Family Services. Section 3 deals with the Division of Welfare and Supportive Services. Section 4 deals with the Aging and Disability Services Division. Section 5 deals with Public Health.

This legislation will allow the Department to enter into contracts—in this case specifically with a nonprofit organization—and that contract and relationship can be without payment. We have a role and the nonprofit organization has a role.

Before, the statute was not clear concerning the language "with or without payment," so things got hung up. As a result, you will see language in each section that allows the Department to enter into contractual relationships without payment. Also included in each section is clarification that the Division is still allowed, in these contractual relationships, to enter and inspect the premises of anyone providing services. It deals with confidentiality and allows us to share information with the nonprofit corporations. It deals with assignment of rights and makes it clear that the state does not waive any immunity or liability.

The best way for me to describe what we are attempting to do is go to the flow chart (Exhibit F). If you look at the left side of the flow chart, you will see a box labeled "Nevada Clinical Services Non-profit." That organization has been created in Nevada and would exist to make payments for certain services that the DHHS now contracts for. What happens is they enter into service contracts. The Department of Health and Human Services ends those contracts, but we continue to have administrative oversight over the work of those contracts; however, the payment for the work is made by the community care collaborative, the nonprofit.

In this process, General Fund dollars now used to pay for these contracted services are saved and put into a budget account that was created in the last session. That pool of dollars, that revolving fund, is able to match federal dollars and make UPL program payments to private hospitals. The funds that are saved can be used for other purposes such as No. 1 on the box under "Nevada Medicaid," payments to the private hospitals. There is also a General Fund savings component; we revert money to the General Fund.

Once we have met those two obligations under the agreement, the money can also be used to make enhanced rate payments to Medicaid providers and also to restore and improve mental health residential services.

There was some testimony in the Senate that I want to clarify. People may think this process could cause state employees to lose jobs. There is nothing in this concept or intent to cause anyone to lose a job. What happens is that our employees continue all the oversight they have always had for these vendors, and let me give you an example. We now contract with Westcare Nevada, Inc. to run mental health and drug/alcohol triage programs both in the north and in the south. We will continue to provide the contract oversight that is necessary; we will do everything we always have done with Westcare, except when it comes time to make a payment. We are not paying for those services out of the state General Fund. We are going to notify Nevada Clinical Services that we are satisfied with the services that have been provided and have Nevada Clinical Services make the payment on behalf of the state of Nevada. That is how it happens. We then use the freed-up General Fund monies, match them, and make enhanced payments to the hospitals. State employees have the same role they have always had and the same oversight over the contract providers. The same quality issues are all in place.

Chair Dondero Loop:
Are there questions from the Committee?

Assemblyman Sprinkle:
Does this bill take contracts that are currently pay-for-service contracts and allow you to still have a contractual obligation for oversight of regulation without actually paying for the service? Is that correct?

Michael Willden:
Now, we pay Westcare to provide a triage service. What will happen is that Nevada Clinical Services will pay for that, but we will continue to provide the oversight. We will tell them to make payment on our behalf. When the Attorney General's Office reviewed our implementation plan after the last session, their concern was that our relationship with Nevada Clinical Services would require a payment, an exchange of money between the two of us. We do not want that to occur. The process does not work if there is payment for our services. The state provides the same services we have always provided in the oversight and administration of the contracts, it is just that Nevada Clinical Services makes the payment for the services. They do not pay us for our administrative oversight.

Assemblyman Sprinkle:
That answered my question and the concern I had. My initial thought was if you are paying for a service, you typically expect more. When you no longer have to pay for it, but are still getting something, I was concerned that there might not be as high an expectation. The payment is still there. You are still doing the oversight, but now there is an intermediary.

Michael Willden:
Absolutely. There is the same oversight; the same high expectations. The only difference is who pays for the service at the end of the process.

Chair Dondero Loop:
Are there additional questions from the Committee? [There was no response.] Mr. Musgrove, did you want to speak?

Dan Musgrove, representing The Valley Health System; and Nevada Clinical Services:
We are the group of hospitals, along with many of our other hospitals throughout Nevada, that came together to give the state the opportunity to come up with additional funds to send to the federal government to get matched. Mr. Willden has testified numerous times in front of committees and had people ask him why Nevada is not able to get more money from the feds in terms of dollars coming back. His answer has always been that we do not have the matching funds. This program has worked well for our corporate partners in other states, including Texas and Louisiana, where we are able to take on expenses for the state, giving the state the opportunity to free up dollars that can be sent to get matched, come back, and help the hospitals and the Medicaid program. You now have additional dollars that were never a part of the state's General Fund. It is a win/win for both entities—the private hospitals and the state. It is something we have been working on for a number of years.

I want to thank Mr. Willden and his staff. They had the patience to stick with us on this and work through it. They realized that there is a benefit in the long run, but it has taken us a while to get there. With this bill, we are at the finish line. We can get this going and actually get some dollars flowing into the state. We appreciate your support and hope to see this bill move through the process.

Chair Dondero Loop:
Are there additional questions?

Assemblyman Hambrick:
Will sequestration affect the leveraging of these accounts?

Michael Willden:
The leverage we get here is the Federal Medical Assistance Percentage leverage. In Medicaid and in the Nevada Check Up program, if you have 37 cents of state money you can get 63 cents of federal money. The idea here is to use existing state General Fund monies and move them to a leveraged position and almost triple that money while Nevada Clinical Services makes payments on our behalf. That is the leverage we create. We get out of paying for certain contracts that are paid for with 100 percent General Fund dollars. We move those dollars over and get into a leveraged position where we can leverage federal matching dollars and roughly triple our money.

Chair Dondero Loop:
Are there additional questions from the Committee? [There were none.]

George Ross, representing Hospital Corporation of America, Inc.; and Sunrise Hospital Medical Center:
I echo everything Dan Musgrove said. We fully agree with him. We have been working on this program for about four years, and most of the time with Mr. Willden and his staff. Mr. Willden has been incredibly patient and persistent. He has been a constant through the entire process. We believe this program has major benefits for the state and its health care system.

You may wonder why this is so convoluted, but every step of this process has to be in accordance with the Center for Medicaid Services' rules and regulations. That is why it took so long to get done.

Misty Grimmer, representing North Vista Hospital:
We are also very much in support of this bill and this program.

Christine Bosse, representing Renown Health:
Renown Health also supports this bill.

Chair Dondero Loop:
Is there anyone else who wishes to speak in support of this bill? Is there any opposition to the bill? Is there anyone neutral? [There was no response.] We will close the hearing on Senate Bill 274 (R1). Is there any public comment? [There was no response.] Is there any comment from Committee members? If not, this meeting is adjourned [at 2:54 p.m.].

RESPECTFULLY SUBMITTED:

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Terry Horgan
Committee Secretary

APPROVED BY:

____
Assemblywoman Marilyn Dondero Loop, Chair

DATE: ____________________________

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: April 29, 2013 **Time of Meeting: 1:35 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 4 (R1)	C	Megan Salcido, rep. the City of Reno	Written testimony
S.B. 51 (R1)	D	Bruce Arkell, rep. Nevada Senior Corps Assn. & Personal Care Association	Flow chart
S.B. 274 (R1)	E	Michael Willden, Director, Dept. of Health & Human Services	Background
S.B. 274 (R1)	F	Michael Willden	Flow chart